

AMENDED IN SENATE APRIL 20, 2009

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 190**

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**Introduced by Senator Wright**

February 18, 2009

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An act to add Sections 110726 and 110727 to the Health and Safety Code, relating to misbranded food.

LEGISLATIVE COUNSEL'S DIGEST

SB 190, as amended, Wright. Misbranded food: pomegranate juice.

The Sherman Food, Drug, and Cosmetic Law contains various provisions regarding the contents, packaging, labeling, and advertising of food, drugs, and cosmetics. The law provides that, except as specified, any food fabricated from 2 or more ingredients is misbranded unless it bears a label clearly stating the common or usual name of each ingredient, and if the food purports to be a beverage containing vegetable or fruit juice, a statement with appropriate prominence on the information panel of the total percentage of fruit or vegetable juice contained in the food. The law makes it a misdemeanor punishable as prescribed, to misbrand any food.

The law also provides that all food labeling regulations adopted pursuant to the federal Food, Drug, and Cosmetic Act shall be the food labeling regulations of this state.

This bill would permit labeling as 100% pomegranate juice or pomegranate concentrate that reconstitutes to single-strength, 100% pomegranate juice only if prescribed requirements are met.

~~The bill would also provide that only a beverage that includes 100% pomegranate juice or pomegranate juice from concentrate that~~

~~reconstitutes to single-strength, 100% pomegranate juice may be labeled to purport to include pomegranate juice, as specified.~~

The bill would, notwithstanding existing penalty provisions, make it a misdemeanor, punishable as prescribed, to violate these provisions, and would specify that each labeling violation constitutes a separate offense.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and declares all of  
2 the following:

3 (a) California is the only commercial growing region of  
4 pomegranates in the United States.

5 (b) Over 250 farmers in California grow commercial  
6 pomegranates on approximately 35,000 acres, generating thousands  
7 of jobs and nearly seventy-five million dollars (\$75,000,000) to  
8 California's farm economy.

9 (c) California pomegranate varieties are superior in quality,  
10 size, taste, and color to pomegranates produced abroad.

11 (d) Many pomegranates grown in California are processed into  
12 juice, which is sold throughout the United States and abroad.

13 (e) Over twenty-five million dollars (\$25,000,000) has been  
14 spent on medical research on specific varieties of California  
15 pomegranates. This research shows that these California  
16 pomegranates contain high levels of antioxidants, which help fight  
17 free radicals. Also, 100 percent pomegranate juice from California  
18 pomegranates helps fight prostate cancer and heart disease.  
19 Preliminary research shows benefits relating to colon cancer,  
20 erectile dysfunction, and diabetes.

21 (f) The proven benefits of authentic 100 percent California  
22 pomegranate juice, combined with the high costs of production,

have led to the selling of diluted and adulterated pomegranate juice on the market that is falsely represented as 100 percent pomegranate juice. Misbranded pomegranate juice not only misrepresents the health value of the pomegranate juice to consumers, it also damages those who manufacture authentic 100 percent pomegranate juice and the economic health of the state's pomegranate growers.

SEC. 2. Section 110726 is added to the Health and Safety Code, to read:

110726. For purposes of Section 110727, the following definitions shall apply:

(a) "Pomegranate juice" means the edible juice obtained by mechanical process from a pomegranate (*Punica granatum*) and includes juice that is concentrated and later reconstituted with water to maintain substantially the original composition of the juice. "Pomegranate juice" may include finely divided insoluble solids, except that it shall not contain pieces of shell, seeds, or other coarse or hard substances or excess pulp.

(b) "100 percent pomegranate juice" or "pomegranate juice concentrate that reconstitutes to single-strength, 100 percent pomegranate juice" means pomegranate juice that consistently has the following composition:

(1) The polyphenol profile, as measured by high-pressure *performance* liquid chromatography, fits the following criteria:

(A) It has six characteristic pomegranate anthocyanins, including delphinidin-3, 5-diglucoside, delphinidin-3-glucoside, cyanidin-3, 5-diglucoside and cyanidin-3-glucoside, perlargonidin-3, 5-diglucoside, and perlargonidin-3-glucoside.

(B) It does not have atypical anthocyanins.

(C) It has at least 20 milligrams per liter of punicalagin, which is a marker of ellagitannin.

(2) The sugar profile, as measured by high pressure liquid chromatography and by carbon isotope ratio, consists of all of the following:

(A) Sucrose or maltose levels of less than 0.001 grams per 100 milliliters, respectively.

(B) A glucose to fructose ratio of between 0.8 and 1.0.

(C) A carbon stable isotope ratio analysis (SIRA) less than or equal to -25(‰).

- 1 ~~(D) Mannitol and sorbitol levels at greater than, or equal to, 0.3~~  
2 ~~grams per 100 milliliters and less than or equal to 0.03 grams per~~  
3 ~~100 milliliters, respectively.~~  
4 ~~(3) The organic acid profile, as measured by high pressure liquid~~  
5 ~~chromatography, consists of both of the following:~~  
6 ~~(A) Tartaric and malic (D-isomer) acids of less than 0.001 grams~~  
7 ~~per 100 milliliters, respectively.~~  
8 ~~(B) A malic acid and citric/isocitric acid ratio of less than or~~  
9 ~~equal to 0.1 grams per 100 milliliters and the ratio of 350,~~  
10 ~~respectively.~~  
11 ~~(B) Neither perlargonidin-3, 5-diglucoside, nor~~  
12 ~~perlargonidin-3-glucoside shall be present in an amount that is~~  
13 ~~greater than the least of the other anthocyanins listed in~~  
14 ~~subparagraph (A).~~  
15 ~~(C) No anthocyanin other than those listed in subparagraph~~  
16 ~~(A) is present individually or collectively in excess of 5 percent of~~  
17 ~~the total anthocyanins.~~  
18 ~~(D) It has at least 100 milligram per liter of punicalagin.~~  
19 ~~(2) The sugar profile consists of all of the following:~~  
20 ~~(A) A sucrose level of less than 0.001 grams per 100 milliliters,~~  
21 ~~as measured by high performance liquid chromatography~~  
22 ~~separation with refractive index detection (HPLC-RI).~~  
23 ~~(B) A glucose to fructose ratio of between 0.8 and 1.0, as~~  
24 ~~measured by high performance liquid chromatography.~~  
25 ~~(C) A carbon stable isotope ratio analysis less than or equal to~~  
26 ~~-25%, as measured by the carbon stable isotope ratio method~~  
27 ~~(13C/12C isotope ratio).~~  
28 ~~(D) A mannitol level at greater than, or equal to, 0.3 grams per~~  
29 ~~100 milliliters as measured by HPLC-RI.~~  
30 ~~(E) A sorbitol level at greater than, or equal to, 0.03 grams per~~  
31 ~~100 milliliters as measured by HPLC-RI.~~  
32 ~~(F) A maltose level of less than .001 grams per 100 milliliters,~~  
33 ~~as measured by HPLC-RI.~~  
34 ~~(3) The organic acid profile, as measured by high pressure~~  
35 ~~liquid chromatography, consists of all of the following:~~  
36 ~~(A) Tartaric acids of less than 0.001 grams per 100 milliliters.~~  
37 ~~(B) A citric/isocitric acid ratio of less than, or equal to, 0.1~~  
38 ~~grams per 100 milliliters, and the ratio of 350.~~  
39 ~~(C) Malic acids of less than .001 grams per 100 milliliters.~~

1 (D) *Malic acid, D-isomer of less than .001 grams per 100*  
2 *milliliters*

3 (4) The amino acid and mineral profile, as measured by high  
4 pressure liquid chromatography and flame *photometer*, consists  
5 of both of the following:

6 (A) A proline amino acid level of less than or equal to 25  
7 milligrams per liter.

8 (B) A potassium level of greater than or equal to 1,800  
9 milligrams per liter.

10 SEC. 3. Section 110727 is added to the Health and Safety Code,  
11 to read:

12 110727. (a) Only 100 percent pomegranate juice or  
13 pomegranate juice concentrate that reconstitutes to single-strength  
14 100 percent pomegranate juice and otherwise meets the percentage  
15 juice labeling requirements of Section 101.30 of Title 21 of the  
16 Code of Federal Regulations in effect as of December 31, 2009,  
17 may be labeled as 100 percent pomegranate juice or pomegranate  
18 juice concentrate that reconstitutes to single-strength, 100 percent  
19 pomegranate juice.

20 ~~(b) Only a beverage that includes 100 percent pomegranate juice~~  
21 ~~or pomegranate juice concentrate that reconstitutes to~~  
22 ~~single-strength, 100 percent pomegranate juice may be labeled to~~  
23 ~~purport to include pomegranate juice by bearing the name of, or~~  
24 ~~variation on the name of, or by making any other direct or indirect~~  
25 ~~representation with respect to, any pomegranate juice or bearing~~  
26 ~~any vignette or other depiction or other pictorial representation of~~  
27 ~~any pomegranate.~~

28 (e)

29 (b) Notwithstanding Section 111825, a person who violates this  
30 section is guilty of a misdemeanor, and upon conviction shall be  
31 punished by a fine of not less than five hundred dollars (\$500) nor  
32 more than one thousand dollars (\$1,000) *per occurrence*, or by  
33 imprisonment in the county jail not exceeding one year, or by both  
34 fine and imprisonment. Each occurrence of a labeling violation  
35 pursuant to this section shall constitute a separate offense.

36 SEC. 4. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 the only costs that may be incurred by a local agency or school  
39 district will be incurred because this act creates a new crime or  
40 infraction, eliminates a crime or infraction, or changes the penalty

- 1 for a crime or infraction, within the meaning of Section 17556 of
- 2 the Government Code, or changes the definition of a crime within
- 3 the meaning of Section 6 of Article XIII B of the California
- 4 Constitution.

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